

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

)
)
) 03 MDL No. 1570 (RCC)
ECF Case

This document relates to:

BURNETT, *et al.* v. AL BARAKA INVESTMENT & DEVELOPMENT CORP., *et al.*, Case No. 03-CV-5738;

EURO BROKERS, INC., *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-07279;

FEDERAL INSURANCE CO., *et al.* v. AL QAIDA, *et al.*, Case No. 03-CV-6978;

NEW YORK MARINE AND GENERAL INSURANCE CO. v. AL QAIDA, *et al.*, Case No. 04-CV-6105; and

WORLD TRADE CENTER PROPERTIES LLC, *et al.* v. AL BARAKA INVESTMENT AND DEVELOPMENT CORP., *et al.*, Case No. 04-CV-07280.


**DECLARATION OF ALAN R. KABAT
IN SUPPORT OF DEFENDANT SHEIKH SALEH AL-HUSSAYEN'S
CONSOLIDATED MOTION TO DISMISS**

I am an attorney licensed to practice in the District of Columbia and am admitted *pro hac vice* in this matter. I am with the law firm of Bernabei & Katz PLLC, counsel to Sheikh Saleh Al-Hussayen. I submit this declaration to transmit to the Court the following documents submitted in support of Sheikh Al-Hussayen's Consolidated Motion to Dismiss:

1. Exhibit 1 to Mr. Al-Hussayen's motion to dismiss is a copy of the Declaration of Sheikh Saleh Al Hussayen (March 30, 2004).
2. Exhibit 2 to Mr. Al-Hussayen's motion to dismiss is a copy of the jury's executed Verdict Form, as filed in United States v. Sami Al-Hussayen, Cr. No. 03-048 (D. Idaho June 10, 2004).
3. Exhibit 3 to Mr. Al-Hussayen's motion to dismiss is a copy of the Order of

Dismissal, as filed in United States v. Sami Al-Hussayen, Cr. No. 03-048 (D. Idaho July 2, 2004).

I declare under the penalties of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed on September 3, 2005.

A handwritten signature in black ink that reads "Alan R. Kabat". The signature is written in a cursive, slightly slanted style.

ALAN R. KABAT

Exhibit 1

Sheikh Saleh Al-Hussayen's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)

IN RE TERRORIST ATTACKS ON SEPTEMBER 11, 2001

THOMAS E. BURNETT, SR., *et al.*,
Plaintiffs,
v.
AL BARAKA INVESTMENT AND DEVELOPMENT
CORPORATION, *et al.*,
Defendants.

C.A. No. 03 CV 9849 (RCC)

I, Sheikh Saleh Al-Hussayen, being duly sworn, declare and state as follows:

[Signature]

1974, initially for the Ministry of Finance and National Economy (1961-1971), and then for the Council of Prime Ministers (1971-1974).

6. After my retirement in 1974, I worked from 1974 to early 2002 for the following organizations: (1) the Al-Madinah Al-Monawarah, a social services organization, (2) Patients' Friends Committee, (3) The Orphans' Welfare organization, (4) The Research and Studies Center of Madinah, (5) The Welfare Store of Madinah; (6) The Education Council of Non-Saudi Citizens, Makkah; and (7) The Counseling Committee, for the King Fahd Complex for Printing the Glorious Quran.

7. In March 2002, King Fahd bin Abdulaziz al Saud appointed me, to serve as the General President of the Affairs of the Two Holy Mosques. King Fahd is the Custodian of the Two Holy Mosques, and the administration is under the King's supervision. I am responsible for overseeing all administrative issues relating to the Grand Mosque and the Prophet's Mosque, including construction, renovation, transportation, and mosque administration, under King Fahd's supervision.

8. I have visited the United States on two occasions. The first visit was in Tuesday 28 November 1979, and was for the medical treatment of my mother at Mayo Clinic where I accompanied my mother in the clinic for two weeks. My second visit was in August and September of 2001, for a vacation. After several Islamic charities learned that I was visiting this country, they invited me to visit them, which I did. On September 17, 2001, at the end of my visit, I and my wife were interviewed separately by two female agents and a translator from the Federal Bureau of Investigation (FBI), shortly after the September 11, 2001 attacks. They showed me photographs of various persons, but I did not recognize any of them. On the day of my departure, while I was outside the hotel, another FBI agent left his pager number at the hotel

where I was staying, and asked me to call him, which I did. I told him that I was leaving in two hours, gave him the information of my flight, and said that he could contact me, if needed, either at the hotel or at the airport. I told him that the FBI had already interviewed me and gave him one of the two names of the two agents who interviewed me earlier, but this agent said he was not aware of that interview. To my knowledge, this FBI agent never made any further attempts to interview me.

9. I own no real property in the United States. I also have no bank accounts, and have no investments in the United States. I do not conduct any personal business with any businesses in the United States.

10. I do not subscribe to or read either the *International Herald Tribune* or the *Al Quds al Arabi*. The latter publication, to my knowledge, is banned in the Kingdom of Saudi Arabia.

11. I have never supported the loss of innocent life and believe that there is no justification for the tragic attacks of September 11, 2001. I have never supported any person or organization that I have known to participate in terrorist activities. I join my government in its condemnation of terrorism.

12. I am informed by my attorney that my name was added to the list of defendants some time after the Third Amended Complaint was filed. However, no allegations were made about me.

13. I can speak , read and understand English.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a smaller 'A' and 'H'.

Sheikh Saleh Al Hussayen

Executed on the 30th day of March, 2004.

Exhibit 2

Sheikh Saleh Al-Hussayen's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAMI OMAR AL-HUSSAYEN,

Defendant.

CASE NO: CR03-048-C-EJL

VERDICT

We, the jury, unanimously find Sami Omar Al-Hussayen:

Count One –

Part A: Conspiracy to Provide and Conceal Material Support or Resources to
Terrorists from on or about September 13, 1994 to on or about February 26, 2003
(18 U.S.C. §371)

☒ Not Guilty

☐ Guilty

Part B: Conspiracy to Provide and Conceal Material Support or Resources to
Terrorists from on or about October 26, 2001 to on or about February 26, 2003
(18 U.S.C. §§371 & 2339A)

☒ Not Guilty

☐ Guilty

Count Two – Providing and Concealing Material Support and Resources to Terrorists
(18 U.S.C. §2339A)

☒ **Not Guilty**

☐ **Guilty**

Count Three – Conspiracy to Provide Material Support and Resources to a Designated
Foreign Terrorist Organization (18 U.S.C. §2339B)

☒ **Not Guilty**

☐ **Guilty**

Count Four – False Statement to the United States (18 U.S.C. §§1001(a)(2) & 3238)

☒ **Not Guilty**

☐ **Guilty**

Count Five – Visa Fraud (18 U.S.C. §§1546(a) & 3238)

☒ **Not Guilty**

☐ **Guilty**

If you found the defendant not guilty on both of Counts Four and Five, move on to Count Seven. If you found the defendant guilty on either or both of Counts Four and/or Five, move on to Count Six.

Count Six – Visa Fraud (18 U.S.C. §§1546(a) & 3237)

☐ **Not Guilty**

☐ **Guilty**

Count Seven – False Statement to the United States (18 U.S.C. §§1001(a)(2) & 3238)

____ **Not Guilty**

____ **Guilty**

Count Eight – Visa Fraud (18 U.S.C. §§1546(a) & 3238)

____ **Not Guilty**

____ **Guilty**

If you found the defendant not guilty on both of Counts Seven and Eight, move on to Count Ten. If you found the defendant guilty on either or both of Counts Seven and/or Eight, move on to Count Nine.

Count Nine – Visa Fraud (18 U.S.C. §§1546(a) & 3237)

____ **Not Guilty**

____ **Guilty**

Count Ten – False Statement to the United States (18 U.S.C. §§1001(a)(2) & 3238)

____ Not Guilty

____ Guilty

Count Eleven – Visa Fraud (18 U.S.C. §§1546(a) & 3238)

____ Not Guilty

____ Guilty

Count Twelve – False Statement to the United States (18 U.S.C. §§1001(a)(2) & 3238)

____ Not Guilty

____ Guilty

Count Thirteen – Visa Fraud (18 U.S.C. §§1546(a) & 3238)

____ Not Guilty

____ Guilty


If you found the defendant not guilty on each of Counts Ten, Eleven, Twelve, and Thirteen, please sign and date the verdict form. If you found the defendant guilty on any one of Counts Ten, Eleven, Twelve, or Thirteen, move on to Count Fourteen.

Count Fourteen – Visa Fraud (18 U.S.C. § 1546(a) & 3237)

____ Not Guilty

____ Guilty

DATED this 10th day of June, 2004.



Foreperson

Exhibit 3

Sheikh Saleh Al-Hussayen's
Consolidated Motion to Dismiss

03 MDL No. 1570 (RCC)

U.S. COURTS

2004 JUL -2 PM 12:20

RECD
CAMERON S. BURKE
CLERK, IDAHO

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SAMI OMAR AL-HUSSAYEN,

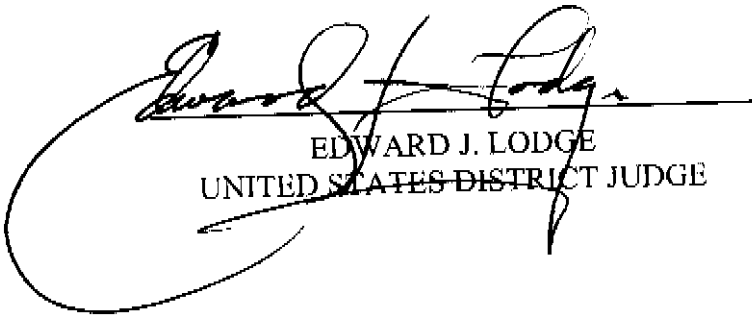
Defendant.

CASE NO: CR03-048-C-EJL

ORDER

On June 10, 2004, the jury in the above-entitled matter returned a verdict of not guilty on some counts but was unable to reach a verdict on other counts. The remaining counts have now been dismissed and there are no further charges pending against Mr. Al-Hussayen. Therefore, the United States Marshal's Service is hereby directed to release Mr. Al-Hussayen into the custody of the Department of Homeland Security, Bureau of Immigration and Customs Enforcement.

IT IS SO ORDERED this 2nd day of July, 2004.


EDWARD J. LODGE
UNITED STATES DISTRICT JUDGE

United States District Court
for the
District of Idaho
July 2, 2004

* * CLERK'S CERTIFICATE OF MAILING * *

Re: 3:03-cr-00048

I certify that I caused a copy of the attached document to be mailed or faxed to the following named persons:

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Boise, ID 83702

Joshua L Dratel, Esq.
14 Wall St, 28th Floor
New York, NY 10005

U.S. Marshal
HAND DELIVERED

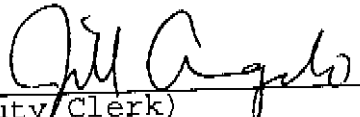
Probation
HAND DELIVERED

____ Chief Judge B. Lynn Winmill
____ ☒ Judge Edward J. Lodge
____ Chief Magistrate Judge Larry M. Boyle
____ Magistrate Judge Mikel H. Williams

Visiting Judges:
____ Judge David O. Carter
____ Judge John C. Coughenour
____ Judge Thomas S. Zilly

Cameron S. Burke, Clerk

Date: 7-2-04

BY: 
(Deputy Clerk)